THE HON'BLE SRI P.S.NARAYANA

WRIT PETITION NO.12681 of 2001

DATED 21.09.2006

Between:
Smt. Shankaramma. .. PETITIONER

versus

Executive Officer, Gram Panchayat, Parigi,
Pargi Mandal, Ranga Reddy District and
two others. .. RESPONDENTS

WRIT PETITION NO.12681 of 2001

ORDER:

Heard the learned counsel.

2. The Writ Petition is filed praying for a Writ of Mandamus declaring the action of the respondents in issuing an impugned order in ZPP/55/2001, dated 2.6.2001 and the notice dated 23.5.2001 and RC.No.ZPP/55/2001 dated 25.5.2001 as illegal, arbitrary and violative of the principles of natural justice apart from being in contravention of Section 127 of the Gram Panchayat Act and consequently direct the respondents to permit the petitioner to construct the house in her land survey Nos.11 and 15 and pass such other suitable orders.

2. It is stated in the affidavit filed in support of the Writ Petition that the petitioner is the absolute owner and possessor of the land admeasuring 975 square yards in survey Nos.11 and 15 to an extent of 2 acres 33 guntas situated at Pargi village and Mandal, Ranga Reddy District and the petitioner had been inducted into possession by the gift deed bearing document No.792/93, dated 12.4.1993 and thus the petitioner has been in possession of survey No.15. In the sale deed dated 20.8.1979 it is stated that the husband of the petitioner had purchased the said property. It is also stated that the District Panchayat Officer after having visited the land in the year 1994, was pleased to accord permission for construction of the compound wall in survey No.11 vide proceedings in RC.No.83/251/94, dated 1.10.1994, and on the basis of the permission accorded by the District Panchayat Officer, the petitioner also had started construction in the year 1996. It

is stated that this construction was to the disliking of the then 2nd respondent for certain reasons, which had been specified, and the petitioner approached this Court by filing Writ Petition No.22825 of 1996 and in the said Writ Petition an order was made directing the Mandal Revenue Officer to maintain status quo. It is also stated that though the said order was in force, the Mandal Revenue Officer was high-handedly, with the assistance of village servants, demolished the compound wall, which lead the petitioner to file a Contempt Case in C.C.No.2103 of 1998. While disposing of the aforesaid Contempt Case, this Court punished the Mandal Revenue Officer and further directed the Mandal Revenue Officer to construct the compound wall, which remains yet to be constructed. It is also stated that the 3rd respondent, who has also been made a party in the Contempt Case, had been directed to appear before this Court during the course of contempt case hearing, wherein the 3rd respondent clearly, across the Bench, stated that she had not complained about the possession of the petitioner, therefore the contempt against 3rd respondent had been dropped. It is also stated that the petitioner made an application on 14.12.1999 to the 1st respondent for according permission to construct the house within the place where she had been already permitted by the respondents vide proceedings specified supra and the petitioner had made a formal application to the 1st respondent on 14.12.1999 for permission to construct the house within the compound wall, for which the District Panchayat Officer had already accorded permission in the year 1994 and along with the said application, the petitioner had submitted the judgment of this Court, the sale deed and the pahanies. The 1st respondent slept over the matter for a long time and having vexed with the inordinate delay, the petitioner started construction by mobilizing the money from different sources and the petitioner

purchased the material requisite for construction of the house. It is also stated that the Mandal Revenue Officer vide his letter No.B/5605/99, dated 30.12.1999 clearly stated that the petitioner purchased the land in survey No.15 to an extent of 2 acres adjacent to Government Civil Hospital and the said Hospital is also situated in survey No.15. It is also stated that a panchanama was held on 24.8.1994, in which the then Medical Officer, Dr.Mukunda, had also put her signature. Prior to that on 19.11.1992 to fix the boundaries, a panchanama was held and even at that time also no objection was raised by the hospital authorities. The Government Civil Hospital is located in survey No.15 with its separate compound wall covering more than 5 acres of land. It is also stated that the land of the petitioner also encircled with a separate compound wall and there is no encroachment from the side of the petitioner or from the side of the hospital authorities. Certain allegations relating to the political motive behind the action also had been averred.

3. The 2nd respondent filed counter affidavit, wherein the prior proceedings in Writ Petition No.22825 of 1996, Writ Appeal No.480 of 1999 and Contempt Case No.2103 of 1998 had been referred to and several factual details had been narrated. The specific stand taken by this respondent is that the petitioner had illegally encroached the land of the Government Civil Hospital to an extent of 5 guntas and the same is evidenced from the report of the Assistant Director, Survey and Land Records, Ranga Reddy District.

4. WPMP.No.22080 of 2006 is filed praying for a relief to direct the respondents 1 and 2 to pass appropriate orders granting house building permission to the petitioner and pass such other suitable orders. It is stated in paragraph 3 of the affidavit that the Medical Officer, Civil Hospital, Pargi had written a letter No.40/GCH/P/2001, dated 8.1.2005 to the 1st respondent stating that on verification they

found that to the land in question they have no objection for issuance of house building permission to the petitioner by the Gram Panchayat and the objection earlier made is being withdrawn. Basing on the said letter, the Secretary, Gram Panchayat, Pargi, had requested the District Collector vide letter No.GPP/55/2001, dated 24.1.2005 to issue appropriate orders for taking further action. The proceedings dated 8.1.2005 and 24.1.2005 also had been placed before this Court.

5. In the light of the stand taken by the hospital authorities withdrawing the objection, it is needless to say that the 1st respondent is bound to consider the building permission in accordance with law. It is also needless to say that in the light of the subsequent proceedings referred to supra, the impugned orders cannot be sustained and accordingly the impugned orders are hereby set aside and the 1st respondent is hereby directed to consider granting of the house building permission in favour of the petitioner to the subject matter of the Writ Petition in the light of the letter No.40/JCH/P/2001, dated 8.1.2005 and ZPP/55/2001, dated 24.1.2005 and pass appropriate orders in accordance with law at an early date preferably within a period of four (04) weeks from the date of receipt of a copy of this order.

6. The Writ Petition is accordingly allowed to the extent indicated above. There shall be no order as to costs.

SSR 21.09.2006